IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE SIDE JURISDICTION

Writ Petition No.9056 of 2003

Shri Jijaba Tukaram Doke and ors.. Petitioners

vs

Sou Yashodabai K Vani and ors...Respondents

Mr S.B.Deshmukh for petitioners

Mr.G S Godbole for respondents

CORAM: S.U.KAMDAR J.

Dated 16.l2.2005

P.C:

. The impugned order dated 27.l0.2003 challenged in the present petition is against an interlocutory order passed by the appeal court by which injunction granted by the trial court has been vacated and set aside. The appeal court has come to the conclusion that the petitioner has failed to establish his title. It has also been held that the respondent is in fact holding certificate issued under section 32M of the Bombay Tenancy and Agricultural Lands Act. She has also taken out proceedings to declare herself as a tenant.

Undoubtedly the proceeding are the subject matter of the appeal before the Sub Divisional Officer. The petitioner in the present petition has not been able to establish his actual possession. In that light of the matter the prima facie view taken by the appeal court cannot be interfered with. In any event the findings given by the appeal court are tentative and the dispute between the parties will be decided finally at the time of trial of the suit. The trial court is directed to decide the pending suit on its own merits uninfluenced by the present order.

. With the aforesaid observations petition is dismissed with no order as to costs.